IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 702 OF 1999

Between:

G.L.Krishna Murthy, S/o.G.Lakshmaiah, Aged 28 years, Hindu, Cooly and Cultivation, R/o.Mallinayakanahalli village, Madakasira mandal, Anantapur district

..... PETITIONER

AND

1.District Collector, Anantapur, Anantapur district.
2.Mandal Revenue Officer, Madakasira mandal, Anantapur district.
3.Revenue Divisional Officer, Penukonda, Anantapur district.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein, the High Court may be pleased to issue a Writ, order or direction particularly one in the nature of Writ of Mandamus directing the second respondent to proceed in accordance with law and assign the lands comprised in S.No.68/10 (Ac.0-87 cents) S.No.68/13 (Ac.0-03 cents) of Mallinayakunahalli village of Madakasira mandal, Anantapur district in favour of the petitioner and direct respondents 1 and 3 to issue instructions to the second respondent to observe the procedure prescribed by law for assigning lands to landless poor persons and consider the petitioner's application accordingly and not to interfere with his possession until his application is disposed of after due enquiry, and pass such other or further orders as are necessary.

Counsel for the Petitioner: MR. R.SUBBA RAO

Counsel for Respondents: GP FOR ASSIGNMENT

The Court made the following :

THE HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO.702 OF 1999

O R D E R:

The petitioner claims to have purchased an extent of Ac.0.87 cents of land in Survey No.68/10 and Ac.0-32 cents of land in Survey No.68/13 of Mallinayakanahalli village, Madakasira mandal in Anantapur district from the original assignee, one Edige Venkata Ramanappa. Subsequently, when it came to light that the said purchased land is assigned, he also filed an application on 29.10.1996 for grant of assignment. When the said application of his was not considered, twice he has approached this Court and filed W.P.Nos.13218 of 1997 and 30395 of 1997 and consequent to the directions granted by this Court, the primary authority has rejected the claim of the petitioner for grant of assignment by endorsement dated 10.3.1998 passed in proceedings No.RCC.68 of 1997. The

claim of the petitioner was rejected by the primary authority i.e. the Mandal Revenue Officer on the ground that there is pre-growth of "date" trees. Questioning the said rejection orders, the petitioner carried the matter in appeal before the Revenue Divisional Officer, Penukonda, while the appellate authority holding that the reasoning assigned is not convincing, he directed the Mandal Revenue Officer to take action under the Act IX of 1977.

2) No counter-affidavit is filed on behalf of the respondents though the writ petition is of the year 1999.

3) The appellate authority, while holding that the reasoning assigned to reject the claim of the petitioner for grant of assignment is not convincing, ought to have remanded the matter to the Mandal Revenue Officer-Primary Authority for reconsideration for grant of assignment. The directions issued by the appellate authority i.e., the Revenue Divisional Officer in the order dated 21.9.1998 to take action under the Act IX of 1977 is beyond the scope of the appeal.

4) In that view of the matter, as the appellate authority itself has recorded that the reasoning assigned by the primary authority rejecting the claim of the petitioner for grant of assignment is not convincing, I dispose of the writ petition, directing the Revenue Divisional Officer, Penukonda, to reconsider the claim of the petitioner for grant of assignment afresh by issuing notice to the petitioner. Till such decision is taken and communicated to the petitioner, the petitioner shall not be evicted from the land in question.

5) Subject to the above direction, the writ petition is disposed off.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Dated: 16th June, 2004.

msnr/ak*

Copies to
1.The District Collector, Anantapur, Anantapur district.
2.The Mandal Revenue Officer, Madakasira mandal,
Anantapur district.
3.The Revenue Divisional Officer, Penukonda,
Anantapur district.
4.Two CCs to the learned Government Pleader for Assignment,
High Court Buildings, Hyderabad (O.U.T).
5.Two CD copies.